

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAMION D. WHITAKER,)	
)	
Plaintiff,)	Civil Action No. 2:22-cv-38
)	
v.)	District Judge W. Scott Hardy
)	Magistrate Judge Lisa Pupo Lenihan
SCI-FAYETTE, <i>et al.</i> ,)	
)	
Defendants.)	
)	

MEMORANDUM ORDER

Plaintiff has submitted a document titled “Motion to Remand All Defendant and Object to the removal” that was filed on August 31, 2022. (ECF No. 81.) Plaintiff states in this document that he objects to the termination of Defendants Eric Armel, Rhonda House, Robert Hawkinberry, J. Aston, Mrs. Debra Hawkinberry, D. Burnsworth, Srg. Dobish, Mr. Wentzel, B. Rodziehsk, K. Matiyasic, Lisa Duncan, Mr. Rogers, D. Varner, Lois Allan, Joseph Trempus, Carl E. Walker, C. DiSalvo, J. Bigam, Mr. Pritchett, Jason Cook, Scott Riddle, Kristin Jeffries, Keri Moore, D. Burkholder, Mr. Harris, and James Bright. Plaintiff is hereby informed that the reason these defendants were terminated is because they were not included as defendants in his Second Amended Complaint that was filed on July 8, 2022. (ECF No. 67.) The only defendants included in the Second Amended Complaint were SCI-Fayette, Department of Human Services, Kimberlee Drum, Office of Healthcare Systems and Mental Health Advocate, Eric Brown, Tiffany Epoca, Joseph Silva, Dr. Malischak Lucas, Tracy Smith, Terri Fazio, Christy Ulrich, Tina Walker and George Little. Plaintiff has been informed on multiple occasions that once an amended complaint is filed, it supersedes and renders the previously filed operative complaint a

nullity and any claims not included within the amended complaint are deemed waived. Given that the Court suspected that Plaintiff wanted to bring all the claims in his original Complaint, First Amended Complaint and Second Amended Complaint in this one action, and that he did not understand the effect of an amended complaint, Plaintiff was ordered to file a third amended complaint that was complete in and of itself and included all of the claims that he wanted to bring. However, Plaintiff has repeatedly indicated through his filings, including his current motion, that he does not intend to file a third amended complaint. As such, the Court will go forward with his Second Amended Complaint, **which only includes claims that the defendants allegedly failed to accommodate his disabilities by placing him in the RHU/STGMU program.** As Plaintiff has previously been warned, all claims not included in the Second Amended Complaint are waived. If Plaintiff still desires to pursue the claims that were in his original Complaint and First Amended Complaint then he is free to do so by filing them in a separate lawsuit.

AND NOW, this 1st day of September, 2022;

IT IS HEREBY ORDERED that Plaintiff's "Motion to Remand All Defendant and Object to the removal" is **DENIED**.

/s/ Lisa Pupo Lenihan
Lisa Pupo Lenihan
United States Magistrate Judge

Cc: Damion D. Whitaker
QA-4318
SCI Fayette
50 Overlook Drive
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